



CITY COUNCIL  
ATLANTA, GEORGIA

**BY PUBLIC SAFETY & LEGAL ADMINISTRATION COMMITTEE**

**A RESOLUTION AUTHORIZING THE SETTLEMENT  
OF THE CLAIM OF FCS CONSTRUCTION  
SERVICES, INC. IN THE AMOUNT OF 76,882.00  
AGAINST THE CITY OF ATLANTA**

**03-R-0889**

**WHEREAS**, the Harris House Renovation was a project that was funded under the City's CDBG and HOME programs for the purpose of housing homeless veterans; and

**WHEREAS**, Veterans Opportunity and Resource Center (VORCI), a non-profit corporation, was the sponsor agency for the Harris House Renovation project; and

**WHEREAS**, HUD approved a pass through grant of approximately 1.8 million dollars for VORCI; and

**WHEREAS**, the City of Atlanta, on behalf of VORCI, administered the RFP and the selection process for a contractor to rehabilitate Harris House; and

**WHEREAS**, FCS CONSTRUCTION SERVICES, INC. won the bid for the construction of the project and the Atlanta City Council authorized the execution of Contract FC-7140-99; and

**WHEREAS**, an audit of VORCI was conducted by HUD, prior to the City's execution of said contract, which contained findings that were serious enough, in the opinion of the Chief Financial Officer, to threaten the viability of VORCI; and

**WHEREAS**, Contract FC-7140-99 between FCS CONSTRUCTION SERVICES, INC. and the City was never executed; and


**WHEREAS**, FCS CONSTRUCTION SERVICES, INC. has filed a claim against the City of Atlanta seeking damages that resulted from the City's non-execution of Contract FC-7140-99; and

**WHEREAS**, the damages to FCS CONSTRUCTION SERVICES, INC. occurred when the company incurred substantial costs including Bid Preparation, Builder's Risk Insurance Premiums, Project Management, Labor Burden and other preparatory expenses associated with the undertaking of the Harris House project; and

**WHEREAS**, the facts disclosed indicate that said claim is based on HUD and City guidelines as they relate to normal bid provisions with regard to allowable cost recoverable on contracts cancelled during the execution process; and

**WHEREAS**, under HUD funding guidelines, Builder's Risk Insurance Premium in the amount of \$6,772.00 and Labor Burden in the amount of \$8,486.00 are documented costs totaling \$15,258.00 and are allowable for reimbursement from HUD on contracts cancelled during the execution process; and

**WHEREAS**, the HUD funding of \$15,258.00 has already been appropriated through the Twenty-Fifth Year Community Development Block Grant Program; and



**WHEREAS**, under the City's normal bid provisions, Bid Preparation of \$7,250.00, Project Management of \$32,638.00, Office Overhead of \$7,618.00 and Profit (10%) of \$14,118.00 are regarded as allowable costs totaling \$61,624.00 and are recoverable on contracts cancelled during the execution process; and

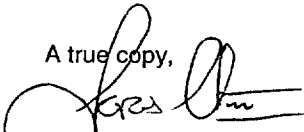
**WHEREAS**, the claimant has asserted damages in the amount of \$80,333.00 and has agreed to accept \$76,882.00 in full and complete satisfaction and settlement of its claim against the City of Atlanta; and

**WHEREAS**, it is the opinion of the City Attorney that FCS CONSTRUCTION SERVICES, INC.'s claim is legitimate, reasonable and it is in the best interest of the City to resolve the claim and, hereby, recommends that the claim be settled for the sum of \$76,882.00.

**THEREFORE, BE IT RESOLVED** that the Council of the City of Atlanta, Georgia that \$76,882.00 be paid by the City of Atlanta to FCS CONSTRUCTION SERVICES, INC. in satisfaction of any and all claims it may have stemming from damages sustained on or about November 4, 2002, at 55 Trinity Street, SW, and that the City Attorney prepare appropriate releases.

**BE IT FURTHER RESOLVED** that the Chief Financial Officer is hereby authorized to pay \$15,258.00 of the above mentioned sum from Grant Fund account number 1B01 Y46P1089A58A 72\*\*\*\* and \$61,624 .00 of the above mentioned sum from General Fund account number 1A01/529017/T31001.

A true copy,



Deputy Clerk

**ADOPTED** as amended by the Council  
**APPROVED** by the Mayor

JULY 07, 2003  
JULY 12, 2003

DEPARTMENT OF LAW - CLAIM INVESTIGATION SUMMARY

Claim No. 02L0847

Date: May 14, 2003

Claimant /Victim FCS CONSTRUCTION SERVICES, INC.  
BY: (Atty) (Ins. Co.) \_\_\_\_\_  
Address: 5135 Berry Street, Covington, Georgia 30014  
Subrogation: \_\_\_\_\_ Claim for Property damage \$ 80,333.00 Bodily Injury \$ \_\_\_\_\_  
Date of Notice: 11/20/02 Method: Written, Proper X Improper \_\_\_\_\_  
Conforms to Notice: O.C.G.A. §36-33-5 X Ante Litem (6 Mo.) X  
Date of Occurrence 11/4/02 Place: 55 Trinity Street, SW  
Department PROCUREMENT Division \_\_\_\_\_  
Employee involved \_\_\_\_\_ Disciplinary Action: \_\_\_\_\_

NATURE OF CLAIM: Claimant sustained damage when the City terminated its contract to perform work on the Harris House Veterans Rehabilitation Contract. An investigation revealed that the project had been approved by HUD for funding. However, HUD conducted an audit of the project and determined that the seriousness of its findings threatened the viability of the project. Accordingly, it was deemed to be in the best interest of the City not to execute the contract. However, the costs that the Claimant incurred to perform said contract were legitimate and reimbursable.

INVESTIGATION:

Statements: City employee X Claimant \_\_\_\_\_ Others \_\_\_\_\_ Written \_\_\_\_\_ Oral X  
Pictures \_\_\_\_\_ Diagrams \_\_\_\_\_ Reports: Police \_\_\_\_\_ Dept Report X Other \_\_\_\_\_  
Traffic citations issued: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_  
Citation disposition: City Driver \_\_\_\_\_ Claimant Driver \_\_\_\_\_

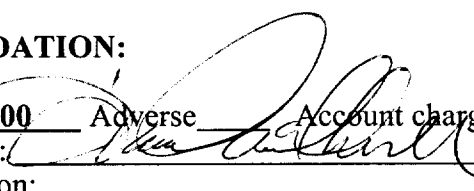
BASIS OF RECOMMENDATION:

Function: Governmental X Ministerial \_\_\_\_\_  
Improper Notice \_\_\_\_\_ More than Six Months \_\_\_\_\_ Other \_\_\_\_\_ Damages reasonable \_\_\_\_\_  
City not involved \_\_\_\_\_ Offer rejected \_\_\_\_\_ Compromise settlement X  
Repair/replacement by Ins. Co. \_\_\_\_\_ Repair/replacement by City Forces \_\_\_\_\_  
Claimant Negligent \_\_\_\_\_ City Negligent X Joint \_\_\_\_\_ Claim Abandoned \_\_\_\_\_

Respectfully submitted,

  
INVESTIGATOR GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ 76,882.00 Adverse \_\_\_\_\_ Account charged: 1A01 X 2P01 \_\_\_\_\_ 2J01 \_\_\_\_\_ 2H01 \_\_\_\_\_  
Claims Manager:  Concur/date 05-29-03  
Committee Action: \_\_\_\_\_ Council Action \_\_\_\_\_

RCS# 4853  
7/07/03  
4:05 PM

Atlanta City Council

Regular Session

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CONS AGEN I Pgs 1 - 14 except:0715,0976  
0852, 0950, 0946, 0963, 0926, 0975  
ADOPT

YEAS: 15  
NAYS: 0  
ABSTENTIONS: 0  
NOT VOTING: 0  
EXCUSED: 0  
ABSENT 1

Y Smith	Y Archibong	Y Moore	Y Mitchell
Y Starnes	Y Fauver	Y Martin	Y Norwood
Y Young	Y Shook	Y Maddox	Y Willis
Y Winslow	Y Muller	Y Boazman	B Woolard

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		7/07/03 Full Council Meeting
ITEMS ADOPTED ON CONSENT	ITEMS ADVERSED ON CONSENT	ITEMS ADVERSED ON CONSENT
1. 03-O-0850 2. 03-O-0949 3. 03-O-0955 4. 03-O-0909 5. 03-O-0961 6. 03-O-0553 7. 03-O-0925 8. 03-R-0981 9. 03-R-0956 10. 03-R-0965 11. 03-R-1033 12. 03-R-0920 13. 03-R-0945 14. 03-R-0966 15. 03-R-0967 16. 03-R-0968 17. 03-R-0969 18. 03-R-0977 19. 03-R-0978 20. 03-R-0979 21. 03-R-0889 22. 03-R-0940 23. 03-R-0941 24. 03-R-0942 25. 03-R-0943 26. 03-R-0944 27. 03-R-0962 28. 03-R-0983 29. 03-R-0984 30. 03-R-0985 31. 03-R-0986 32. 03-R-0987 33. 03-R-0988 34. 03-R-0989 35. 03-R-0991 36. 03-R-0992 37. 03-R-0994	38. 03-R-0989 39. 03-R-0991 40. 03-R-0992 41. 03-R-0994 42. 03-R-0995 43. 03-R-0996 44. 03-R-0997 45. 03-R-0998 46. 03-R-0999 47. 03-R-1000 48. 03-R-1001	49. 03-R-1002 50. 03-R-1004 51. 03-R-1005 52. 03-R-1006 53. 03-R-1007 54. 03-R-1008 55. 03-R-1009 56. 03-R-1010 57. 03-R-1011 58. 03-R-1012 59. 03-R-1013 60. 03-R-1014 61. 03-R-1015 62. 03-R-1016 63. 03-R-1017 64. 03-R-1018 65. 03-R-1019 66. 03-R-1020 67. 03-R-1021 68. 03-R-1022 69. 03-R-1023 70. 03-R-1024 71. 03-R-1025 72. 03-R-1026 73. 03-R-1027 74. 03-R-1028

Consent I Vote: 15 Yeas; 0Nays: (See RCS #4853)

Items Removed from the Consent Agenda: 03-O-0852; 03-O-0926; 03-O-0950; 03-R-0715; 03-R-0946; 03-R-963; 03-R-0975; 03-R-0976

03-R-0889

(Do Not Write Above This Line)

A RESOLUTION

BY PUBLIC SAFETY & LEGAL  
ADMINISTRATION COMMITTEE

A RESOLUTION AUTHORIZING  
THE SETTLEMENT OF THE  
CLAIM OF FCS  
CONSTRUCTION SERVICES,  
INC. IN THE AMOUNT OF  
\$76,882.00 AGAINST THE CITY OF  
ATLANTA

By:

Jerry L. DeLoach  
Deputy City Attorney

ADOPTED BY

- ☐ CONSENT REFER  
☐ REGULAR REPORT REFER JUL 07 2003  
☐ ADVERTISE & REFER  
☐ 1st ADOPT 2nd READ & REFER **COUNCIL**  
☐ PERSONAL PAPER REFER

Date Referred

Referred To:

Date Referred

Referred To:

Date Referred

Referred To:

First Reading

Committee \_\_\_\_\_  
Date \_\_\_\_\_  
Chair \_\_\_\_\_  
Referred to \_\_\_\_\_

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

Committee

Date

Chair

Action:

Fav, Adv, Hold (see rev. side)

Other:

Members

Refer To

FINAL COUNCIL ACTION

☐ 2nd ☐ 1st & 2nd ☐ 3rd  
Readings  
☒ Consent ☐ V Vote ☒ RC Vote

CERTIFIED

CERTIFIED  
JUL 07 2003

Jerry L. DeLoach  
COUNCIL PRESIDENT PROTEM

CERTIFIED  
JUL 07 2003

Frank Douglas Johnson  
MUNICIPAL CLERK

MAYOR'S ACTION

Frank  
JUL 2 2003